



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Systems Support Services, Inc.

File: B-235755

Date: October 4, 1989

DIGEST

1. Proposal may be downgraded if offeror fails to provide required corporate or individual employee references. Where contracting agency specifically requested offeror to provide "references, names and phone numbers of agencies or companies who [could] verify employees' [five in all] or the company's experience" on computer equipment to be maintained under proposed contract, and company submitted only one name and phone number of individual who allegedly could confirm only one employee's experience with now-defunct concern, contracting agency properly downgraded protester's proposal.

2. General Accounting Office (GAO) will not attribute prejudicial motive to contracting agency on basis of mere suggestion. Where contracting agency was justified in downgrading protester's proposal for failure to furnish required references, GAO concludes that agency did not exhibit bias against protester.

DECISION

Systems Support Services, Inc. (SSS), protests the decision of the Federal Communications Commission (FCC) to award a firm, fixed-price contract for the maintenance of 21 "Plexus" microcomputers to Motorola, Inc., under request for proposals (RFP) 89-02, which was issued on December 19, 1988. The contract was for a base period of 1 year with up to 4 additional years of services possible.

SSS contends that it did not receive appropriate credit for its employees' and its corporate experience and its capability to provide spare parts; that it should have been awarded the contract as the lowest-priced offeror; and that the FCC was biased against the protester, especially since it is a small business concern.

We deny the protest.

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The RFP required offerors to submit technical and cost proposals. As to technical proposals, offerors were instructed that the evaluation standards were: (1) technical approach (worth 150 evaluation points) in which, among other requirements, offerors were to list their proposed local inventory of parts and describe their proposed methods and time required to acquire and install parts not in local inventory; (2) corporate experience (150 points) in which offerors were to describe their background and experience with "special emphasis on computer maintenance experience on Plexus microcomputers or similar microcomputers" including references; (3) understanding the requirements (100 points); and (4) personnel and their experience (50 points) in which offerors were to identify the proposed contract staff by position and provide a resume for each proposed employee.

The RFP further provided that as to price the FCC would determine comparative ranking by using the lowest technically acceptable vendor's proposed price as a numerical standard of highest merit against which all other offerors' proposed prices would be compared. As to the combined, comparative importance of technical and price standards, the RFP finally provided that technical would be weighted 50 percent more than price.

Five offerors, including SSS and Motorola, responded by the closing date of January 27, 1989. The FCC initially ranked SSS's proposal fourth of the five proposals evaluated and ranked Motorola's proposal first. As references for corporate experience, SSS listed the names of "past government and commercial clients on page 4 of its proposal."^{1/} However, the listing of these clients (including the now-alleged, key client reference) was by entity name and city address only; SSS did not provide by name any entity employee whom the FCC could have contacted or the street address and phone number of the entity. SSS also included a "table of past performance" with its offer which listed six of SSS's prior federal contracts (involving six of the entities listed on page four of its proposal) and listed the contracting officer for each contract along with a full address (exclusive of phone number) for each contracting activity; however, each contract was identified essentially as "maintenance for government owned ADPE" without any indication that Plexus or Plexus related equipment was the equipment that had been maintained under

^{1/} SSS also argues that one of its commercial clients so listed could have verified the company's current experience on the required equipment.

the contract. As for the five individual resumes submitted with SSS's proposal, four of the five resumes stated that references were available only on request; the fifth resume was silent on this point.

The FCC evaluation team subsequently determined that it could not complete its initial evaluation of proposals until several offerors, including SSS, submitted proposal clarifications. Specifically, the FCC evaluators decided that, except for two individuals (whose resumes were considered vague), the rest of SSS's staff appeared not to be fully trained on Plexus or equivalent systems. Further, the evaluators decided that SSS should be requested to provide telephone numbers of references who could verify SSS's experience on the specified equipment.

As to SSS's repair parts capability, the FCC evaluators determined that SSS should be asked how it proposed to acquire repair parts not in current inventory and, generally, how SSS would "have access to parts or the ability to acquire [parts] within 24 hours." Consequently, by letter of February 24, 1989, the FCC posed the following to SSS: . . .

"2. [R]esumes are vague on Plexus training received. Also, it appears the rest of the staff is not fully trained on Plexus or equivalent systems. Explain.

"3. Provide telephone numbers for references who can verify your ability to provide computer maintenance service on Plexus or equivalent systems.

"4. Explain your accessibility to parts or the ability to acquire them within 24 hours.

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"6. Explain your familiarity with Plexus technical manuals and diagnostic equipment.

"7. Explain your ability to provide full computer service on Plexus or equivalent systems."

In reply, SSS stated that several of its staff had "experience on Unix-based equipment" and that two members of its staff "were also exposed to Plexus type equipment" in past employment. SSS did not, however, provide telephone numbers for references regarding "verification of employment and work performed" because, it said, "telephone numbers have

changed for most of the referenced companies." Nevertheless, SSS stated that the FCC could contact relevant personal and corporate references in writing at the locations set forth in its initial proposal. As to repair parts capability, SSS stated that it had "well-established relationships and terms with several local equipment and parts suppliers each of which maintained adequate inventory of the subject equipment to ensure 24 hour delivery."

On receiving SSS's response, the FCC decided that its specific February 24 request for telephone numbers of references who could verify SSS's ability to "provide service on Plexus or equivalent systems" had been misunderstood by SSS to be only a request for general verification of employment and work performance. The FCC's contracting officer therefore telephoned SSS on March 22, 1989, and specifically asked the company to provide "references, names and telephone numbers of agencies or companies who could verify employees' or the company's experience with maintenance on Plexus or equivalent microcomputers." By letter of the same date SSS again insisted that: (1) the president of SSS and two of its staff had "all acquired experience on Unix-based equipment" (which, SSS insisted, was the same type of equipment as Plexus); (2) the president of SSS had "personally worked on Plexus type equipment" with a now-defunct company; and (3) the only telephone number it could provide was that of an individual, a former client of the now-defunct company, who allegedly could attest to SSS's president's work on this equipment. Finally, SSS added that in the event any piece of equipment could not be repaired within 24 hours, SSS would provide the user with a "similar loaner system at no charge until the inoperable equipment is repaired."

The FCC then completed evaluation of all the submitted proposals and revisions. As a result of its answers, the rating of SSS's proposal was slightly increased in the areas of personnel and organizational experience, but overall SSS's proposal was ranked last technically. Specifically, the FCC determined that SSS's proposal failed to demonstrate access to spare parts,^{2/} while Motorola's proposal presented a very detailed account of how it would obtain access to spare parts. Further, the FCC considered that SSS did not indicate any corporate experience with Plexus equipment while Motorola demonstrated prior maintenance support, which was researched by calling the references listed.

^{2/} FCC states that access to spare parts is considered vitally important especially since Plexus has declared bankruptcy and has discontinued making spare parts.

Consequently, in comparison to SSS's proposal, FCC considered Motorola's proposal to show "clear superiority."^{3/}

Nevertheless, SSS's proposal was not excluded from the competitive range. Thereafter, the FCC requested and received best and final offers. SSS changed only its price proposal in its best and final offer, and no offeror significantly changed its technical proposal. After applying the RFP provision concerning the respective weighing of price and technical merit, the FCC made award to Motorola whose final technical score was about 40 percent higher than SSS's technical score and whose proposed price was about 16 percent higher than SSS's.

The evaluation of proposals is a responsibility within the discretion of the contracting agency since it is responsible for defining its needs and the best methods of accommodating them. Maxima Corp., B-220072, Dec. 24, 1985, 85-2 CPD ¶ 708. However, the agency's evaluation must have a reasonable basis. Syscon Corp., B-208882, Mar. 31, 1983, 83-1 CPD ¶ 335.

We conclude that the FCC had a reasonable basis for rating SSS's technical proposal as it did in the areas of corporate and personnel experience and parts inventory. We further conclude that FCC's subsequent award to Motorola was consistent with the RFP's evaluation scheme.

SSS contends that its proposal, as revised, "indicated the specific experiences relating to the type of subject equipment" so that SSS's proposal should have been rated higher than it was in corporate and individual engineer experience. Specifically, SSS contends that its proposal, on its face, shows a "plethora of experience on [Plexus microcomputers or similar equipment]; that is, systems with similar configurations capable of running UAX-based software such as DEC PDP 11 series, DEC VAX series, IBM 80286 and 80386 systems."

SSS further argues that all of its experience was documented and available for FCC's verification. Specifically, SSS alleges that in its proposal's corporate background section the company "listed names and locations of applicable

^{3/} Specifically, the FCC found that Motorola's background and work history revealed extensive experience with several Plexus models and that, in view of this experience, and Motorola's "superior maintenance support capability," the FCC awarded a higher technical score to Motorola's proposal than to SSS's.

current and past clients" and that the FCC must, therefore, be seen as improperly failing to pursue SSS's references.

In reply, the FCC argues that examination of SSS's references disclosed only SSS's experience with personal computers which are not similar to microcomputers.^{4/} Although SSS did note SSS's experience on "Unix-based equipment," the FCC maintains that Unix is an operating system that may be used with a wide variety of computers and notes that SSS did not specify whether all of its staff had derived its experience from Plexus or equivalent computers.

We have concluded that it is proper to downgrade an offeror's proposal for failure to provide required references. East-West Riggers and Constructors, B-213091, Apr. 25, 1984, 84-1 CPD ¶ 478. In our view, SSS's proposal, even as revised, failed to provide references sufficient to merit a score higher than the scores it was given by the FCC in these areas. As noted above, page 4 of SSS's initial proposal contained the city address only of its previous client-references--including the one alleged key reference. The listing of the city address only and the failure to include the name and phone number of a representative of each client effectively precluded the FCC from contacting any of these client references. Moreover, the alleged key commercial client was not identified as such in an overall listing of 21 other references on page 4 of the proposal so that there was no reasonable way for the FCC to know that one of the 22 references was considered so important by SSS.

SSS's response to the FCC's specific request for "telephone numbers for references" who could verify SSS's capability to service the required equipment provided only one telephone number of an individual who allegedly could testify to the previous work of SSS's president on similar equipment; however, no "telephone numbers for references" were provided for SSS's experience as a corporate entity or for the individual experience of the other four members of SSS's proposed contract staff. Although it might have been difficult for SSS to research the phone number and address changes, the burden for such research was clearly on SSS rather than the FCC. Only SSS was in a position to research telephone and address changes on key individuals--known only to SSS--who could provide references to the FCC. Although SSS also contends that the company's proposal on its face

^{4/} The FCC notes that a microcomputer has a larger memory and storage capacity than a personal computer; microcomputers can also accommodate more than one user at a time.

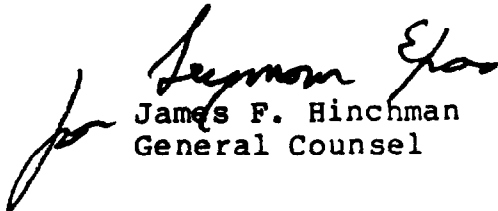
shows experience with the required equipment, the RFP specifically called for corporate references to confirm the alleged experience and, moreover, the FCC then specifically asked for "names and [tele]phone numbers" of references--only one of which, as noted above, was furnished and that was as to the president of SSS only.

Given this fundamental weakness in SSS's offer concerning "names and phone numbers" references as to its corporate and employee experience, we do not find unreasonable FCC's ranking of SSS's technical proposal. In addition, we find reasonable the FCC's evaluation of SSS's offer concerning its repair parts capability, which capability was founded essentially on SSS's general assertion that certain companies with whom it had agreements had "adequate inventories of the subject equipment to ensure 24 hour delivery." We note that SSS did not furnish any details as to these agreements or inventories notwithstanding the FCC's request for an explanation of SSS's "accessibility to parts"--a request which was of serious concern given Plexus's bankruptcy.

Next, SSS alleges that it should nevertheless have been awarded the contract given its low price in relation to the awardee and all other competitive offers. However, based on our review of the record, we conclude that SSS's low cost offer received all the points which it was entitled to receive under the RFP's evaluation formula, and any further adjustment of those scores would be improper.

Finally, SSS alleges that the evaluation shows that the FCC had bias against the company, especially since it is a small business concern. However, our Office will not attribute prejudicial motives to the contracting agency on the basis of mere suggestion. Allied Management of Texas, Inc., B-232736.2, May 22, 1989, 89-1 CPD ¶ 485. Based on our review of the record, as noted above, we conclude that the FCC did not exhibit bias against SSS.

The protest is denied.


James F. Hinchman
General Counsel